

AGENDA ITEM #14

May 14, 2004

To: Delta Protection Commission

From: Margit Aramburu, Executive Director

Subject: Proposed Budget and Work Plan for FY 04-05
(For Possible Commission Action)

STAFF RECOMMENDATION:

The Commission should review the proposed budget and work plan, and authorize staff to seek funding for special projects as described and pursue contracts for office space and services as described. The Commission should direct staff to carry out the tasks and programs described in the work plan.

REVIEW BY THE BUDGET AND FINANCE COMMITTEE:

The draft budget and work plan for FY 04-05 was reviewed at a meeting on April 28, 2004. The Committee recommended some modifications and directed staff to bring the draft budget and work plan to the full Commission for consideration.

BACKGROUND:

The Governors proposed budget, released in January 2004, provides \$301,000 for the Delta Protection Commission, of which \$163,000 is from the Harbors and Watercraft Revolving Fund (HWRP) and \$138,000 is from the Environmental License Plate Fund (ELPF). This expenditure level is the same as estimated expenditures in the current year. The May Revision of the 04-05 budget has not yet been released. The Senate Budget Subcommittee approved the proposed budget on April 29. The Assembly Budget Subcommittee approved an amended budget: \$150,000 from the Harbors and Watercraft Fund and the remainder from local governments.

A contract between Department of Boating and Waterways and the Commission for \$225,000 in federal funds for boating and water-based recreation planning for the Delta has been finalized and signed. The funds will be used to hire a consultant to assist staff in preparing a new report on Delta recreation. A portion of the funds will be needed to pay State Lands Commission for additional administrative tasks. Additional funds will be needed to complete planning activities for the terrestrial areas; Commission will provide staff time to this portion of the planning process.

**** The Commission should consider and possible authorize staff to seek and apply for additional funds to complete the Delta Recreation planning process.***

The Delta Resource Conservation and Development (RC&D) Program did not receive funding for staff from the US Department of Agriculture (an application was submitted October 2002) and no new programs will be funded this federal fiscal year (through September 30, 2004). The RC&D did receive a \$10,000 grant to continue its organizational and outreach activities. In addition, the RC&D did receive a \$1,500 grant from the Great Valley Center to pay fees associated with the creation of the nonprofit board. A consultant has been retained to assist in this process. The Commission's staff continues to assist in the formation of the RC&D nonprofit board.

RECOMMENDATIONS OF THE LEGISLATIVE ANALYST'S OFFICE (LAO):

Last year's budget bill required the LAO to review the report submitted by the Secretary of Resources and make recommendations to the Legislature (see attached). The LAO's report includes two recommendations:

- The adoption of budget bill language to shift the Delta Protection Commission's funding support from state funds to locally funded reimbursements.
- Given development pressures near, but outside of the area of the Primary Zone of the Delta, the Legislature may wish to reevaluate the scope of the Commission's geographic jurisdiction.

Assemblymember Wolk's bill, AB 2476, would direct the Commission to prepare a study of Secondary Zone lands to determine if development in the Secondary Zone would impact the Primary Zone.

I. PROPOSED BUDGET:

Funding:

Governor's Budget (January 2004): For FY 04-05, the Governor recommended \$301,000 of special funds for the Commission (*\$307,000 were allocated for FY 03-04, before statewide cuts*). The funds would be from two special funds: the Environmental License Plate Fund and the Harbors and Watercraft Revolving Fund.

The expenditures are broken into two categories:

- \$212,000 personal services/ 3.6 positions, including salaries, wages, and benefits.
- \$89,000 for operating expenses and equipment.

Senate Budget Subcommittee:

The Senate Budget Subcommittee approved the funding as included in the Governor's proposed budget, subject to possible changes associated with AB 2476.

Assembly Budget Subcommittee:

The Assembly Budget Subcommittee recommended that the Commission receive half of the proposed budget from the Harbors and Watercraft Fund, and the other half from local

governments. The Subcommittee recommended the Commission receive no funds from the Environmental License Plate Fund.

Expenses:

Lease:

A two-year lease for the Commission's office ends December 31, 2004. Staff has started negotiations with the existing landlord. Sacramento County has indicated it does not have the funds to remodel its building in Walnut Grove to bring it to current code requirements and thus is not interested in leasing that space at this time. Staff has contacted Commissioner Nottoli's office to see if there are any other opportunities regarding renting space in the County building.

Other Contracts:

The Commission will continue to contract for janitorial services and for maintenance of its copier, with private vendors. The Commission will continue to contract for mapping and web site support services with State agencies (Department of Conservation and Teale). The Commission will continue to contract with the State Lands Commission for administrative, fiscal, and budget services.

II. PROPOSED WORK PLAN:

ADMINISTRATIVE /TECHNICAL/PUBLIC INFORMATION:

Executive Management:

This ongoing activity includes liaison with the Commission, Administration and Legislature; interagency coordination; managing Commission agendas and meeting material and managing overall staff work.

Administrative Support:

This ongoing activity includes accounting, budgeting, legislative coordination on budgetary and administrative matters, information technology, personnel, business services, facilities operations, grants and contracts administration, support and coordination of the Commission and Commission meetings, records management, and related activities, reception and general clerical support of the Commission's office. Consultant is State Lands Commission.

Geographic Information System and Website:

This ongoing activity includes supervising consultant development and maintenance of Geographic Information System, and supervising maintenance of Commission's website. Consultant is Teale Data Center. It is expected that any GIS work associated with the recreation study will be funded through the contracted funds and be performed by the planning consultant.

Public Outreach:

This ongoing activity includes preparation and distribution of the newsletter regarding Commission and Delta actions and activities, speaking at public meetings and on

educational tours, and responding to telephone and walk in inquiries. Staff is evaluating internet based options to replace the paper newsletter.

Legislative Liaison:

This ongoing activity provides bill analysis of proposed legislative changes affecting the Delta and Delta land uses, preparation of staff reports to Commission, staff to Legislation Committee, and preparation of correspondence. Due to budget cuts, only bills directly relating to the Commission will be tracked; the Legislation Committee will not meet.

REGULATORY:

Appeals:

This ongoing work consists of general inquiries, preparation of staff analysis with assistance of legal counsel. No appeals were filed in the last fiscal year.

Land Use Changes:

This ongoing work consists of project monitoring, preparation of comment letters on proposed projects, preparation of monthly memo of proposed projects, preparation of annual report of land use changes, and monitoring grants and land acquisitions that could lead to land use changes.

The Commission has created a new Committee to analyze the type of projects being proposed in the Secondary Zone and make recommendations to the full Commission regarding Commission review and discussion of development projects in the Secondary Zone that may impact the resources of the Primary Zone. The Committee met on May 10, 2004 and has directed staff to undertake additional research and preparation of materials prior to forwarding any recommendations to the full Commission.

Local General Plan Conformance with Commission's Adopted Land Use Plan

This ongoing activity includes preparation of analysis, staff recommendations, and resolutions when new General Plans are prepared and adopted, and when the Commission amends its Land Use and Resource Management Plan for the Primary Zone of the Delta. Current general plan adoption/updates include: Cities of Pittsburg, Stockton, Tracy, and Sacramento County.) Consideration of the City of Oakley's new General Plan will be completed in FY 03-04.

PLANNING:

Regional Planning Coordination:

This ongoing activity includes coordination with County Planners regarding projects and issues, coordinate with Counties preparing Habitat Conservation Plans (Contra Costa, Solano, and Yolo Counties), coordination with State agencies preparing regional plans/programs, respond to requests for information and material from interested citizens and other groups regarding proposed Delta projects Participate in development of new regional projects, such as Sacramento Area Flood Control Agency's regional flood control project, and participation in development of proposed large-scale land use

management proposals, such as North Delta National Wildlife Refuge and Yolo Bypass Management Strategy, to promote projects which are consistent with the Commission's Policies and which will have minimal adverse impacts on nearby and adjoining land uses. Participate in regional planning programs, such as Blueprint (SACOG) to promote Commission's vision for Delta Primary Zone as part of regional planning programs.

Agriculture Planning:

The planning project proposed by American Farmland Trust (AFT) is currently on hold due to funding constraints. If funding can be obtained, AFT is eager to complete the planning activities. The Commission's tasks would include assisting with various meetings, and review of background material, and draft documents.

Delta Resource Conservation and Development Program (RC&D):

This ongoing task is to provide interim staff for Delta RC&D, including preparation of nonprofit incorporation documents, setting meetings and preparing meeting materials, and assisting in the preparation of a revised grant application. The Delta RC&D received a \$10,000 grant to continue its organizational and public outreach tasks. Those funds have been used to hire a consultant to assist in preparation and filing of required paperwork to create a nonprofit organization. Commission staff is overseeing the work of the consultant, and will convene a meeting of the new Council in FY 04-05.

Wildlife Habitat Planning:

This ongoing task includes participation on Delta In-Channel Islands Work Group (part of San Francisco Estuary Project) that has sponsored an enhancement project on Delta In-Channel Islands, participation on the Working Landscapes Subcommittee of the Bay Delta Public Advisory Committee (CALFED), and in various forums seeking to develop best management practices to promote year round and seasonal habitat values on agricultural lands. The Commission staff will comment on drafts of the Delta Regional Ecosystem Restoration Implementation Plan when released by the Department of Fish and Game.

Recreation Planning:

This ongoing task includes coordinating with other agencies studying Delta recreation, reviewing and commenting on local recreation and open space planning documents, assisting California Delta Habitat and Education Foundation in development of habitat enhancement, recreation and education project on Hog Island, San Joaquin County.

Delta Recreation Study:

This project includes an update of the survey of Delta recreation facilities, and overseeing preparation of new study of Delta recreation by staff and a consultant (funds provided by Department of Boating and Waterways and other sources). Commission staff would staff the Citizens Advisory Committee and hire and supervise the work of a consultant. Staff would also update the Recreation Facilities Inventory and assist in coordination with local governments and interested parties.

Levees Planning:

This ongoing task includes participation on Secretary for Resources' Delta Levees and Habitat Advisory Committee to coordinate issues and develop funds for long-term levee maintenance, and review of proposals for mitigation of impacts to habitat associated with levee maintenance and enlargement.

Evaluation of Cumulative Impacts of Projects Approved in the Primary and Secondary Zones:

Staff will work with the new Delta Land Use Impacts Committee to gather information about the type, number, location and impacts of projects approved in the Primary and Secondary Zones of the Delta from 1993 to the present.

CALFED Bay-Delta Program:

This ongoing activity includes participation on the Agency Coordination Team, attendance at Bay-Delta Public Advisory Committee and Bay-Delta Authority Meetings, participation in North Delta Improvements Project planning process to develop solutions to alleviate flooding along the Cosumnes and Mokelumne Rivers between I-5 and the San Joaquin River, participation in South Delta Improvements Project planning process to develop solutions to water movement in the South Delta area, participating in other planning groups for CALFED projects located in the Delta, review of planning documents and environmental documents associated with various program components, participate/attend BDPAC Subcommittees. Commission staff has gathered local governments that obtain drinking water from the Delta to apply for funds from CALFED to prepare a Delta Drinking Water Plan. The Commission will participate in the plan and assist in public outreach and review of the plan.

**** The Commission should consider and possibly authorize participation in the CALFED-funded Delta Drinking Water Quality planning process.***

Attachment One

Legislative Analyst's Office--Analysis of Proposed 04-05 Budget for Delta Protection Commission

The Delta Protection Commission (DPC) was created by statute in 1992 to develop a long-term resources management plan for land uses within the Sacramento-San Joaquin Delta. This plan is implemented by local governments in their land use planning processes. Broadly speaking, the main goal of the commission is to protect and enhance the overall quality of the Delta environment for agriculture, wildlife habitat, and recreational activities.

The budget proposes expenditures of \$301,000 for DPC in 2004-05, of which \$163,000 is from the Harbors and Watercraft Revolving Fund (HWRF) and \$138,000 is from the Environmental License Plate Fund (ELPF). This expenditure level is the same as estimated expenditures in the current year.

The Future of the Commission

At legislative hearings on the current-year budget, concerns were raised about the potential for overlap and duplication between activities carried out by DPC and other state agencies, particularly the California Bay-Delta Authority (CBDA). In addition, the Legislature expressed interest in examining the future role for the commission, in light of findings that the commission has fulfilled many of its statutory mandates. As a result, the Legislature, in the *Supplemental Report of the 2003-04 Budget Act*, directed the Resources Agency to report to the Legislature on various issues, including the commission's accomplishments to date, suggestions regarding its future mission, membership, funding, and ways to facilitate coordination between DPC and other state and local agencies with resources-related responsibilities in the Delta region.

The Legislature also considered the commission's future at a hearing of the Senate Select Committee on Delta Resources and Development in November 2003. In developing this analysis, we reviewed the Resources Agency's supplemental report response as well as the testimony presented at the November policy hearing, among various other sources of information.

Creation, Program Responsibilities, and Budget of the Commission

The Delta Protection Commission oversees the local implementation of a regional land use plan for a large part of the Sacramento-San Joaquin Delta. The budget proposes \$301,000 for the commission in 2004-05, all from special funds.

Creation of Commission

The DPC was created by the Johnston-Baker-Andal-Boatwright Delta Protection Act of 1992 (Chapter 898, Statutes of 1992), and was made permanent in 2000 (Chapter 505, Statutes of 2000 [AB 2930, Torlakson]). The commission's jurisdiction includes portions of five counties—Solano, Yolo, Sacramento, San Joaquin, and Contra Costa—and is referred to as the "Primary Zone" of the Sacramento-San Joaquin Delta. The commission consists of 19 members including six state agency representatives, five local county supervisors, three city representatives, and five reclamation district representatives. The

commission meets once per month and commissioners are not paid per diem. Policy subcommittees meet at least once per month between regular monthly meetings. The commission employs three full-time staff—an Executive Director, an environmental scientist, and a staff services analyst.

Statutory Role of Commission.

The Delta Protection Act of 1992 established as state priorities the protection and preservation of the resources of the Delta. The goals of the legislation were: (1) to protect, maintain, enhance, and restore the overall quality of the Delta environment for agriculture, wildlife habitat, and recreational activities; (2) to balance conservation and development of Delta land resources; and (3) to improve flood protection to increase public health and safety.

To further these goals, the act required DPC to take several actions. First, DPC was required to complete a regional land use plan for the Delta. The purpose of the regional plan is to provide local planners with guidelines to use in considering the cumulative impacts of individual land-use decisions on resources (such as agricultural viability, fisheries, and water quality) in the Delta region. Second, the DPC was given a review and appeal authority should local decisions contradict the adopted plan. During an appeal (which must be made by a party other than the commission), the commission may halt a project while it reviews the individual appeal. The commission then works with the local land use agency to either amend the existing project or propose an alternative plan for the project.

Commission Wholly Funded by Special Funds.

Historically, three special funds have supported the DPC. These are ELPF, HWRF, and the Delta Flood Protection Fund. In the last several years, the ELPF and HWRF have been the sole source of support for the commission, with the latter fund providing the larger share of support. The commission's funding has increased over the past 11 years from \$250,000 to its current level of \$301,000. This is an average annual increase of roughly 2 percent.

The Commission's Current Roles, Focus, and Benefits

We find that the Delta Protection Commission has achieved much of its original statutory mandate and that many of its broad goals have been assumed by, or are also being carried out by, other state agencies. Currently, the commission's activities are focused largely on monitoring both local compliance with the regional land use plan and meetings and actions of the CALFED Bay-Delta Program. Delta constituents consider the commission's role as a public forum to protect and balance land uses in the Delta as one of its benefits.

In the sections that follow, we discuss the extent to which the commission has fulfilled its statutory requirements and met its statutory goals. We also discuss the current focus of the commission's activities as well as some of the benefits of the commission from the perspective of Delta constituents.

Delta Regional Planning Document Completed.

In 1995, the DPC completed the statutorily required planning document entitled *Land Use and Resource Management Plan for the Primary Zone of the Delta*. This document was subsequently incorporated into the general plans of all affected local planning agencies as well as state regulations. With this requirement completed, the DPC turned its focus to monitoring the activities of the local planning agencies, as well as state and federal compliance with the plan.

Since the completion of the regional resource management plan, only one local planning decision has been appealed to the commission on the basis that it contradicted the regional plan.

Overlap With Other State Agencies.

Our review finds a number of examples of overlap between the activities of DPC and those of other state agencies, particularly CBDA and the CALFED Bay-Delta Program (CALFED).

The CALFED program was established in 1994 with the signing of a state-federal accord to coordinate resource management activities in the Bay-Delta region among local, federal, and state agencies. Subsequently, the Legislature enacted Chapter 812, Statutes of 2002 (SB 1653, Costa), that created CBDA as the state oversight agency for the CALFED program and adopted a framework for the program. Although DPC is a CALFED member agency, it does not have a seat on CBDA. While the Delta region has been represented in part by DPC during this process, other Delta interests have also been at the table, as well as varied interests from other regions. (For an in-depth analysis of the CALFED program, please see our write-up in the "Crosscutting Issues" section of this chapter.)

Though the scope of the CALFED program and the new CBDA are broader than that of the commission, we have found a number of examples of overlap between the activities of DPC and those of CBDA and the CALFED program. For example, both the commission and CALFED/CBDA review plans for Delta levees and monitor major changes in land use in the Delta. Both DPC and the CALFED entities participate in multi-agency groups to support protection and enhancement of Delta ecological areas, including the Delta In-Channel Islands.

For the most part, the commission's goal related to the protection of wildlife habitat in the Delta is being carried out by CBDA and the CALFED Bay-Delta Program's ecosystem restoration program, as well as by other Resources Agency departments, including the Wildlife Conservation Board and the Department of Fish and Game. The commission's goal related to Delta recreation is also being carried out by CBDA and the CALFED Bay-Delta Program, as well as by several departments under the Resources Agency, including the Department of Parks and Recreation and the Department of Boating and Waterways. Finally, the commission's goal related to flood protection is largely being carried out by CBDA and the CALFED program, as well as by the Department of Water Resources and the State Board of Reclamation.

Focus of Commission's Current Efforts.

Given the completion of the regional plan, we find that the commission's current activities are focused on two sets of activities: (1) monitoring local planning processes for consistency with the regional plan and (2) monitoring CALFED/CBDA planning and implementation activities. In fact, commission staff reported that about one-half of staff time (for nonadministrative functions) in recent years has been spent monitoring CALFED program activities.

However, our review also finds that one of DPC's current major roles—that of representing Delta interests in the CALFED process—has also been at least partially assumed by a statutorily approved public advisory committee. Specifically, the Bay-Delta Public Advisory Committee provides a forum for various local and industry-based stakeholders to communicate their perspectives to the CALFED policymakers. For example, this public advisory committee includes a subcommittee on agriculture that focuses on the needs of farmers in the Delta and those downstream.

Benefits of the Commission.

A number of witnesses at the November policy hearing on DPC were of the view that DPC continues to serve an important function as a "public forum" to speak for, and help balance, the interests of a broad range of Delta constituencies, including agriculture, wildlife habitat, and recreational interests. The DPC is seen as the entity that knows "what is going on" (development wise) in the Delta's Primary Zone and surrounding areas. The commission's existence was considered a motivating factor for local governments to take an appropriately regional perspective in their planning decisions. Many parties testified that it was uncertain whether another entity would assume the commission's regional planning function if DPC were eliminated. This was stated to be the case given the failure of a voluntary planning council formed in the 1970s to create and maintain a comprehensive land use plan for the Delta. Finally, a number of parties testified that DPC provides an important link between CBDA and the Delta region's local governments and landowners.

Recommendations and Issues for Legislative Consideration

We recommend the adoption of budget bill language to shift the Delta Protection Commission's funding support from state funds to locally funded reimbursements. In addition, given development pressures near, but outside of, the area of the Primary Zone of the Delta, the Legislature may wish to reevaluate the scope of the commission's geographic jurisdiction.

We find that there are two issues regarding DPC that the Legislature should consider. These relate to how the commission is funded and its area of geographic jurisdiction. We discuss these issues in the sections that follow.

Funding of the Commission.

Our findings indicate that DPC has completed its required regional planning document, and several of its functions and goals are currently carried out by CBDA and other Resources Agency departments. The current focus of the commission—monitoring local planning and CALFED activities and serving as a local public forum to speak for and balance Delta interests—appears to be more appropriately funded by the local interests

that the commission serves, rather than by state funds. Therefore, we recommend that the Legislature shift the commission's funding support from state funds to reimbursements from Delta local governments, including cities, counties, and regional reclamation districts. In order to facilitate this, we recommend that the Legislature direct the commission to submit a plan for assessing local governments to fully cover its budgeted expenditures. We also recommend that the Legislature adopt the following budget bill language under Items 3840-001-0140 and 3840-001-0516 to require reimbursement of the special funds proposed to support DPC from the assessments on local governments:

It is the intent of the Legislature that funds appropriated in this item will be fully reimbursed by revenues from an assessment levied by the Delta Protection

Commission on local governments benefiting from its activities.

For the 2005-06 and future budget years, we recommend that DPC be funded fully from these reimbursements.

Jurisdiction of the Commission.

Finally, a number of witnesses at the November policy hearing noted the significant development pressures occurring in the Delta's "Secondary Zone"—that is, the portion of the Delta that surrounds, but is beyond DPC's area of geographic jurisdiction. The concern is that while these development pressures will, over time, cumulatively affect the resources of the Primary Zone, DPC currently has no authority to take action with respect to land use issues in the Secondary Zone. We think that the scope of the commission's geographic jurisdiction raises important policy issues that would warrant an in-depth analysis by the legislative policy committees before enacting changes. Should the Legislature choose to expand the commission's geographic scope, we would recommend that any accompanying program expenditure augmentations be funded fully by reimbursements from local beneficiaries of DPC's efforts as described above.
